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August 24, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-204B
Washington, DC 20554

Re: CC Docket No. 96-98

Dear Ms. Salas:

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby submits the following documents for inclusion in the record in this proceeding:

1. Declaration of Andoni Economou, Executive Vice President and Chief Legal Officer of Metropolitan Telecommunications ("MetTel"); and

2. Declaration of Vincent Griffin, Managing Director, Telecommunications, for MCG Credit Corporation ("MCG").

These documents discuss the experiences of each respective company, and demonstrate why it is proper for the purposes of the Commission's impairment analysis to consider all customers purchasing individual voice grade analog lines as a single product market. These documents also demonstrate why the lack of access to ILEC-provisioned unbundled local switching, in any geographic area, will materially diminish the ability of CLECs to provide competitive telecommunications service to the entire voice grade analog line market.

ORIGINAL

An original and one copy of this notice is provided.

Sincerely,

Todd D. Daubert

TDD:slr

Enclosures

cc: Jake Jennings
Claudia Fox
Chris Libertelli
Jonathan Reel
Katherine Farroba
Ben Childers

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AUG 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the Telecommunications	)	
Act of 1996	)	
	)	

Declaration of Andoni Economou, MetTel
In Support of CompTel's Petition for Reconsideration

1. My name is Andoni Economou. I am the Executive Vice President and Chief Legal Officer of Metropolitan Telecommunications ("MetTel"). MetTel is a competitive telecommunications provider, serving the voice grade analog line market throughout the state of New York. MetTel's customer base consists largely of residential customers. MetTel also serves a small, but significant, number of business consumers of voice grade analog lines: approximately 10-15 percent of total lines served. MetTel's business model requires it to increase its business consumer base as a percentage of the whole in order to continue servicing the residential market.

2. To provide competitive service to New York consumers in the voice grade analog line market, MetTel relies exclusively on leasing combinations of unbundled network elements of the incumbent local exchange carrier ("ILEC"). This method of providing facilities-based competitive service

is sometimes referred to as the unbundled network element "platform" ("UNEP").

3. The purpose of my declaration is to provide evidentiary support for the Petition for Reconsideration filed by the Competitive Telecommunications Association ("CompTel"), of which MetTel is a member. I will explain why it is proper, for purposes of the Commission's impair analysis, to consider all customers purchasing individual voice grade analog lines as a single product market. I will also explain why the lack of access to ILEC-provisioned unbundled local switching, in any geographic area, will materially diminish MetTel's ability to provide competitive telecommunications service to the entire voice grade analog line market.

4. The voice grade analog line market. All customers who purchase telecommunications service on a "per line" basis, regardless of whether they are businesses, or residences, share certain characteristics that both distinguish them from higher capacity customers (DS1 and above) and, at the same time, render attempts to define discreet sub-markets within the voice grade analog line market not meaningful.

5. Customers who purchase telecommunications service on a "per line" basis are unlikely to purchase service on a DS1 basis until they have enough lines to justify the investment in customer premise equipment necessary to digitize their, otherwise analog, voice and data transmissions. Although the decision to purchase service on a DS1 basis varies from customer to customer, the point at which substitution of a DS1 for multiple voice grade

analog lines becomes economic for most end-users, in MetTel's experience, is well above 4 lines and may be over 20 lines. In any event, customers who do not require enough lines to justify the investment in digital translation customer premise equipment do not have any substitutes for the voice grade analog line.

6. The DS1 and above market is distinguishable from the voice grade analog line market because DS1 customers are generally operating more telecommunications-intensive businesses, and demand sophisticated communications solutions. A provider serving this market will normally require a specialized sales staff, familiar with the customer premise equipment market, the service provider market, and the integrator market. Purchasers in this market segment are often very sophisticated and frequently employ either a telecom manager, or telecom consultants who help them select vendors. Providers attempting to address the voice grade analog line and DS1 markets would not, and based on my knowledge typically do not, use the same sales and marketing personnel, or marketing channels, to address both markets.

7. On the other hand, customers who purchase voice grade analog lines may properly be referred to, in the aggregate, as the mass market. Because customers with less than DS1 level service requirements are not necessarily geographically concentrated in any clearly identifiable way, these customers must be reached through media of mass distribution, such as television, radio, print media and telemarketing. Moreover, these

customers typically require similar service configurations, so a carrier can design standard service offerings that are likely to appeal to a sufficient number of voice grade analog line customers to make mass marketing efficient.

8. For these same reasons, it is easy to illustrate why it does not make sense to attempt to distinguish sub-markets within the voice grade analog line market by number of lines purchased. As a practical matter, it is very difficult, if not impossible, to efficiently target the marketing message to those customers with 3 or less lines, and thus service providers would have to turn away customers with greater than 3 lines that were, nonetheless, attracted by the voice grade analog service offering. For example, MetTel frequently engages in telemarketing to attract new customers. MetTel does not learn how many lines prospective customers have until it receives a billing number and a Letter of Agency ("LOA"), which can be used to pull a Customer Service Record ("CSR") that identifies the number of lines that customer has. Therefore, MetTel has no efficient way to restrict its marketing message to those customers with 3 lines or less, and would be forced to turn away interested customers. For this reason, MetTel believes that a service provider would not be able to reduce meaningfully its marketing expenses even if it tried to "focus" on the 1-3 line voice grade analog line market (to the degree that is possible). Thus, any attempt to arbitrarily limit the "natural" voice grade analog line market to an artificial subset of that market, would simply result in a *de*

facto requirement that any carrier seeking to serve the 1-3 line voice grade analog line market must absorb even higher costs in the form of inefficient, and economically wasteful, marketing expenses. This is especially likely to be true if the CLEC prices to all customers, based on cost, and does not price discriminate based on whether the voice grade analog line is used by a residential, or small business, customer.

9. Another similar result of the arbitrary 3 line switching carve-out is that it becomes more difficult to retain an effective sales force. Most telecommunications sales professionals are compensated through commissions based on the number of lines they sell and the average revenue per line of the lines sold. Good telecommunications sales people will not stay with a company if they know they will have no prospect of selling to higher-value, multi-line business customers, and if they must spend much of their time making sales to customers that the company ultimately will not be able to provision. Under this scenario, a sales person's time and effort will not be adequately compensated unless the carrier raises commissions to a level that is no longer economical. For these reasons, MetTel believes that it may not be able to retain a high quality sales force if the 3-line switching carve-out is retained. Thus, the inability to provide service to the higher end of the voice grade analog line market, will ultimately impair the ability of MetTel and other carriers to serve the lower end of this market as well.

10. Alternative switching is not available. Currently, from the perspective of a CLEC focused on the voice grade analog line market, there are no substitutes for ILEC-provisioned switching. Other CLECs do not offer voice grade analog level switching service. Thus, for purposes of determining competitive alternatives, it is meaningless for the Commission to consider the number of non-ILEC switches that are deployed in any given geographic area. These facilities are not available on a "per line" analog line basis to CLECs.

11. MetTel's experience with provisioning intervals for hot cuts relates to the conversion of customers served off of other CLEC's facilities back to our UNEP service on Bell Atlantic's switch. We have executed only 192 of these migrations in our 4 years in business. In every case the customer experienced some disruption of service and the average interval was over 15 days, versus the 2-3 day interval that should be possible for BA to cutover electronically a BA customer to MetTel UNEP service. This demonstrates how administratively and operationally expensive it is to perform "hot cuts." Self-provisioning could not possibly be considered a viable substitute for ILEC switching in the DS0 market.

12. Self-provisioned switching is not a substitute for ILEC switching for CLECs serving the voice grade analog line market. There are two reasons or this: 1) the cost of entering and serving the voice grade analog line market is already high, additional investment simply to address some undefined number of potential customers is necessarily speculative and

unlikely to be economic; and 2) the availability of the EEL will still not allow us to efficiently and expeditiously provide geographically ubiquitous coverage, even for an area as limited and defined as Zone 1 of the top 50 MSAs, to the voice grade analog line market without a substantial investment in switching.

13. Start-up costs are high for providers serving the mass market for voice grade analog lines. Entering the mass market, with any expectation of attaining profitability, requires that a provider invest in the Operations Support Systems ("OSS") necessary to support the provision of service through UNEP. I explained earlier that marketing to voice grade analog line customers requires relatively expensive "mass marketing". Similarly, servicing these customers can also be more expensive, on a "per line" basis, than serving larger customers.

14. Voice grade analog line customers tend to be less sophisticated telecommunications consumers, and, as a result, tend to have relatively more customer service needs, in general, than larger customers. This is especially true relative to "DS1" customers, who often have the ability to change their own service features through Centrex, or PBX, functions. Voice grade analog line customers, on the other hand, must always have features added or removed by their service provider.

15. Because a carrier focusing on the voice grade analog line market must be able to market to, provision, maintain an inventory of the customer's serving arrangement, and handle customer service for a high volume of

relatively small customers, it is imperative to have a robust OSS. MetTel uses the most sophisticated carrier to carrier OSS interface, which is based on the Electronic Data Interchange ("EDI") protocol. Development of this interface is an ongoing process that MetTel began over 3 years ago and that has already cost millions of dollars.

16. CLECs will not make the investments in OSS functionality that are necessary to serve an artificially, and arbitrarily, limited portion of the voice grade analog line market if they were required to undertake dual entry investments in order to serve the entire mass market. Put simply, MetTel would not have invested in the robust OSS infrastructure necessary to provide service to the 1-3 line voice grade analog market if we knew we would also have to undertake substantial switching investments simply to be able to serve some unknown level of customers in the upper portion of this same market. In my opinion, such an inefficient bifurcation of the mass market will ensure that neither portion of this market will be capable of entry by an efficient CLEC.

17. <u>UNEP is necessary to promote the deployment of facilities by CLECs</u> It is important to keep in mind that, realistically, a certain number of lines per geographic area is necessary before a carrier like MetTel can justify the investment in its own facilities. If the commission implements its line restriction, it will limit the number of small and medium-sized businesses that MetTel will be able to serve. As a result, reaching the required critical mass under which deployment of facilities would be justified will

be delayed. Moreover, each 1-3 line customer must be *acquired.* It is much cheaper to provide good service to a 6 line customer, who may "grow" to a 12 line customer, than it is to have to acquire and service 3 separate 2 line customers—each of whom will leave, if as a result of the CLEC's superior service, their telecommunications needs increase. The perverse result of the Commission's arbitrary distinction being that a competitor is effectively punished for providing competitive quality service to the most under-served portion of the market.

18. Unless a carrier has had an opportunity to efficiently acquire small business customers, it is difficult for that carrier to develop a reputation with that customer group for providing fair prices and quality service. Similarly, without an economically viable means to interact with these customers as they grow their businesses, it is equally difficult for a carrier to be able to anticipate what type of equipment investment will be necessary to best serve their unmet requirements for new and advanced telecommunications service.

19. MetTel is about to deploy a class 4 tandem switch in its point of presence to provide long distance service to its customers. We will finance this switch by the savings we will enjoy from deploying our own switch as opposed to providing service through switch-less resale. Moreover, it will allow us to differentiate ourselves in the market place because we will offer bundled services not offered by others. Even with our low critical mass, The UNEP makes this facility build out possible *without* stranding capital. Our equipment deployment will continue as, if and when equipment utilization rates are high and provisioning costs are low.

Therefore, contrary to the argument made by all the ILECS, the UNEP will promote facilities based competition by allowing more CLECs to obtain critical mass and high utilization rates faster than otherwise possible. Indeed. ILECs would not dream of deploying equipment unless they were enjoying similar economies of scale (except where otherwise required by law). Although the deployment of this switch will be useful for the provision of LD services, we agree with the record evidence showing that a CLEC like MetTel could not feasibly use its own switch to provide local service to customers with multiple lines.

20. The end result of the arbitrary 3 line switching cutoff, is that carriers seeking to serve any portion of the mass market will be condemned to higher entry costs, wasteful marketing costs, and, assuming these are overcome, greater customer churn and operating inefficiency as the cost of "success."

21. For the voice grade analog line market to be economically served by competitors, the Commission must not artificially partition this market. Such a partition would create two markets neither of which will be economically served by any competitors. For example, MetTel's ability to provide service, primarily to residential customers, will be severely impaired without unrestricted access to serve small and medium sized-businesses. Moreover, the artificial costs associated with a line restriction will unnecessarily consume resources and will undoubtedly delay the deployment of MetTel's own facilities. In short, a line restriction at the DS0 level will place MetTel at a competitive disadvantage which will in turn result in fewer choices for the consumer, which would clearly

frustrate the goals of the Telecommunications Act. The Commission should, therefore, determine that a carrier seeking to serve any part of the mass market will be impaired without access to the ILEC's unbundled local switching. This concludes my declaration.

Andoni Economou
Executive Vice President
MetTel

Dated: 8/23/00

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Provisions of the Telecommunications	)	
Act of 1996	)	
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Declaration of Vincent Griffin, MCG Credit Corporation
In Support of CompTel's Petition for Reconsideration

1. My name is Vincent P. Griffin. I am Managing Director, Telecommunications, for MCG Credit Corporation ("MCG"). MCG is a private specialty finance company, with a specialization in telecommunications. As Managing Director, Telecommunications at MCG, I review the business plans and requests for financing of many competitive local exchange carriers ("CLECs") seeking expansion capital. MCG's investment philosophy is that we believe superior returns are best achieved by investing in superior companies striving to provide differentiated services to meet unsatisfied demand. We believe the communications needs of the residential and small business markets are underserved.

2. Our investment strategy has led us to invest in several CLECs seeking to provide competitive communications services to consumers in the residential and small- to medium-sized business, among other, markets. Most of these carriers rely, in some part, on providing service by leasing

all of the unbundled network elements of the incumbent local exchange carrier ("ILEC"). This method of providing facilities-based competitive service is sometimes referred to as the unbundled network element "platform" ("UNE-P").

3. Since the release of the FCC's first Local Competition Order, which specifically authorized competitors to provide service using UNE-P, MCG has developed a further specialization in the operational issues and opportunities of CLECs who are employing this strategy in whole or in part to serve certain customer segments. MCG presently has investment relationships with several UNE-P CLECs.

4. MCG typically invests in private and small- to mid-capitalization public companies. MCG's capital is used by its CLEC customers to further accelerate marketing, customer service platforms, market expansion, product development and investment in support systems.

5. In order to qualify for investment by MCG, we review the CLEC's financial performance and business plan, and develop an assessment of how efficiently the company has implemented its business plan, as well as whether the assumptions/projections in the initial business plan were accurate. Once we determine that a carrier has been able to successfully implement the first phase of its plan, and that its business model provides for fairly reliable projections of attainable future performance, we will provide financing if we believe the company is likely to continue to meet its targets.

6. The purpose of my declaration is to provide evidentiary support for the Petition for Reconsideration filed by the Competitive Telecommunications Association ("CompTel"), of which MCG Credit, along with many of our CLEC clients, is a member. I will explain why MCG believes that it is critical for those carriers seeking to serve the mass market to have access to the ILEC's unbundled local switching in order to serve all DS0 customers throughout the ILEC's service territory. Without such ubiquitous, and unrestricted, access to ILEC unbundled switching combined with voice grade analog loops, it is my belief that carriers seeking to serve the lower ends of the mass market will be impaired in their ability to achieve the level of financial returns sufficient to justify capital investment.

7. Carriers who are serving the DS1 and above markets will often serve some "mass market-small business" customers with more sophisticated telecommunications needs through their own switches. However, it is important to consider that these instances of switch-based service to these customers, who would otherwise be considered within the small business portion of the mass market, are only possible because the facilities were originally purchased to serve the DS1 and above markets, *and* the customer either had digital translation equipment, or the customer's bandwidth needs justified the placement of such customer premise equipment.

8. Currently, MCG is financing several "mass market-focused" CLECs who are providing service in the voice grade analog line market mainly through UNEP. In each instance, the CLEC has committed substantial resources to provide adequate "back office" systems, customer service, billing and operational support.

9. Moreover, each of these carriers has a business plan and internal financial performance targets that are predicated on their ability to capture business, and/or residential, customers. If these carriers are unable to reach their performance targets due to limitations on the availability of UNE-P, absent a substantial new investment in switching equipment in order to serve business customers, MCG may be forced to re-evaluate whether the UNE-P model for serving the mass market is likely to continue to justify further investment.

10. Thus, pockets of unavailability of UNE-P due to line or zone restrictions are difficult business plan impediments. If a UNE-P based CLEC is not able to profitably address the entire voice grade analog line market, it is my belief that this CLEC will have difficulty meeting its financial performance requirements. Additionally, the CLEC's ability to deliver competitive and innovative products to a broader market will be hampered. Consequently, its continued access to capital from investors such as MCG Credit may be impaired. This concludes my declaration.

Vincent P. Griffin
Managing Director, Telecommunications
MCG Credit Corporation

Dated: 8/23/00

CERTIFICATE OF SERVICE

I, Shannon Robbins, hereby certify that a true copy of the foregoing Declaration of Andoni Economou and Declaration of Vincent Griffin was served this 24th day of August, 2000, via hand delivery, to the following:

Magalie Roman Salas, Secretary
Federal Communications Commission
12th Street Lobby, TWA-325
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Shannon Robbins

Shannon Robbins

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